

Dated: August 24, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6RA).

40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart T—Louisiana

2. Section 52.975 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 52.975 Redesignations and maintenance plans: ozone.

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(b) Approval—The Louisiana Department of Environmental Quality (LDEQ) submitted a redesignation request and maintenance plan for St. James Parish on May 25, 1993. The EPA deemed this request complete on September 10, 1993. Several approvability issues existed, however. The LDEQ addressed these approvability issues in a supplemental ozone redesignation request and revised maintenance plan. This supplemental submittal was received for St. James Parish on December 15, 1994. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) of the Act as amended in 1990. The redesignation meets the Federal requirements of section 182(a)(1) of the

Clean Air Act as a revision to the Louisiana ozone State Implementation Plan for this parish. The EPA therefore approved the request for redesignation to attainment with respect to ozone for St. James Parish on November 13, 1995.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.319, the ozone table is amended by revising the entry for St. James Parish to read as follows:

§ 81.319 Louisiana.

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LOUISIANA—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * * * *				
St. James Parish	November 13, 1995	Attainment.		
* * * * *				

¹ This date is November 15, 1990, unless otherwise noted.

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[FR Doc. 95–22162 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[ME–24–1–6911a; A–1–FRL–5284–8]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This SIP was submitted by the State to satisfy the Federal mandate to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Clean Air Act as amended in 1990 (CAA).

DATES: This final rule is effective November 13, 1995, unless notice is received by October 12, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Emanuel Souza, Jr., (617) 565–3248.

SUPPLEMENTARY INFORMATION: Implementation of the provisions of the CAA, as amended in 1990, will require regulation of many small businesses so

that areas may attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the Federally approved SIP. In addition, the CAA directs EPA to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in Section 507 of Title V of the CAA. In February 1992, EPA issued Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments, in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) the establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment

of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP.

II. Analysis

Maine has met all of the requirements of section 507 by submitting a SIP revision that implements all required PROGRAM elements.

1. Small Business Assistance Program

Section 507(a) sets forth six requirements¹ that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act.

The SBAP has met this requirement by acting as a clearing house for developing, compiling and disseminating technical information for small businesses. Mechanisms include networking and obtaining information from various agencies and departments within the State, EPA and business sectors. The program will provide and prepare industry guidelines for small businesses. The State has also established a toll-free phone number to help answer small business questions.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.

The State has met this requirement by providing assistance to small businesses by responding to telephone and written requests. Additionally, the state will sponsor conferences, workshops, etc. to disseminate information. Maine's small business assistance program is placed in the State's existing Office of Pollution Prevention. Therefore, the SBAP is built on an already established program.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements

and in receiving permits under the Act in a timely and efficient manner.

The State's SBAP will be the responsibility of the small business ombudsman and the staff within the Office of Pollution prevention. The implementation of the program will also involve various functional units within the Department of Environmental Protection. The SBAP will assist air emission sources by providing sources with assistance in identifying applicable rules; determining the need for a permit; explaining permitting procedures; providing the necessary forms and applications and assisting them in preparing the documents; providing sources with information on the Small Business Assistance Program; assisting them by identifying compliance assistance; and referring small businesses with specialized problems or concerns to the Ombudsman.

The fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act.

The State has met this requirement by listing various mechanisms in the SIP revision which will be utilized while implementing the program. These mechanisms include, among others, assistance in identifying applicable rules, explaining relevant issues, providing information and notifying small businesses of their rights and obligations.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the Act.

The State will meet this requirement by preparing brochures outlining the rights and obligations under the CAA and the small business assistance program. This effort will be further supplemented by the staff's development of compliance and permitting workshops. The audit program will be funded primarily by the Department with 25% of the cost of the audit coming from the source. The State will offer two types of audit services. The Department is also exploring other possibilities of establishing a more effective and efficient audit program.

The sixth requirement is to develop procedures for consideration of requests

from small business stationary sources for modification of (A) any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

The SIP revision states that regulations for consideration of work practices for technological methods of compliance exist in Maine's regulations governing the Title V Operating Permit Program. All requests for modifications will be considered according to the regulations set forth in Title V whether or not that source is subject to Maine's Title V Permit program. The regulations include: (1) procedures for receiving requests from small businesses to modify the provisions of state adopted regulations; (2) format of such requests; (3) procedures for how requests shall be reviewed and acted upon; and (4) requirements to ensure that no such modification may be granted unless it is in compliance with the applicable requirements of the CAA, applicable SIP or any Federal regulation.

2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. The State has met this requirement by placing the Ombudsman in the existing Office of the Pollution Prevention. A specific list of Ombudsman duties are listed in the SIP revision. Maine's legislation legally authorizes the Ombudsman to carry out the role and functions of the federally mandated position by specifically addressing the requirements in section 507.

3. Compliance Advisory Panel

Section 507(e) requires the State to establish a Compliance Advisory Panel that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has met this requirement by incorporating the compliance advisory panel into the existing Pollution Prevention Advisory Committee. Since the compliance advisory panel is being integrated into an already established panel, the State has revised the make-up of the formal Pollution Prevention Advisory committee to meet the requirements of

¹ A seventh requirement of Section 507(a), establishment of an Ombudsman office, is discussed in the next section.

section 507(e). The committee will be increased to 16 voting members. Selection of the panel members is consistent with the CAA requirements and the additional members of the panel do not change the overall makeup of the panel as required in section 507(e).

In addition to establishing the membership of the CAP, the State PROGRAM delineates four responsibilities of the Panel: (1) to render advisory opinions concerning the effectiveness of the SBAP and the difficulties encountered; (2) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act;² (3) to review and assure that information for small business stationary sources is easily understandable to the layperson; and (4) the Ombudsman may serve as the Secretariat for the development and dissemination of panel reports and advisory opinions.

4. Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

- (A) Is owned or operated by a person who employs 100 or fewer individuals;
- (B) Is a small business concern as defined in the Small Business Act;
- (C) Is not a major stationary source;
- (D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and
- (E) Emits less than 75 tpy of all regulated pollutants.

The SIP revision's eligibility requirements for the PROGRAM is consistent with the CAA. Additionally, the SIP revision says that it will be the general policy of the Department of Environmental Protection to assist all business in meeting the requirements of the CAA. However, wherever resources become a limiting factor in providing such assistance, the Department will give priority to businesses which meet the definition of small business stationary source under section 507(c)(1) of the CAA.

Final Action

In this action, EPA is approving the SIP revision implementing each of the required PROGRAM elements required by section 507 of the CAA. EPA is publishing this action without prior

proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action removes the January 15, 1993 finding of failure to make a submittal for the Small Business Assistance Program. This action will be effective November 13, 1995 unless adverse or critical comments are received by October 12, 1995.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 13, 1995.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. The Office of Management and Budget exempted this action under Executive Order 12866.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal

governments have elected to adopt the program provided for under Section 507 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because all affected sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

By today's action, EPA is approving a state program created for the purpose of assisting small business stationary sources in complying with existing statutory and regulatory requirements. The program being approved does not impose any new regulatory burden on small business stationary sources; it is a program under which small business stationary sources may elect to take advantage of assistance provided by the State. Therefore, because EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

² Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Small business assistance program.

Note: Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 24, 1995.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart U—Maine

2. Section 52.1020 is amended by adding paragraph (c)(38) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(38) Revisions to the State Implementation Plan establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program were submitted by the Maine Department of Environmental Protection on July 7, and August 16, 1994.

(i) Incorporation by reference.

(A) Letter from the Maine Department of Environmental Protection dated July 7, 1994 submitting a revision to the Maine State Implementation Plan.

(B) Revisions to the State Implementation Plan for the Small Business Stationary Source Technical and Environmental Compliance Assistance Program dated July 12, 1994 and effective on May 11, 1994.

(C) Letter from the Maine Department of Environmental Protection dated August 16, 1994 submitting a corrected page to the July 12, 1994 SIP revision.

[FR Doc. 95–22152 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NH17–01–7150a; A–1–FRL–5281–8]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Extension of the Date To Meet Conditions for the Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes and allows for extension of the date for the State of New Hampshire to meet the conditions delineated in the **Federal Register** notice of October 12, 1994 (59 FR 51514) from July 29, 1995, until November 14, 1995. New Hampshire must meet these conditions before the motor vehicle inspection and maintenance program can be approved. The intended effect of this action is to approve a revision to the date for submission of required conditions in accordance with Section 110(k)(4) of the Clean Air Act.

DATES: This final rule is effective November 13, 1995, unless notice is received by October 12, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW. (LE–131), Washington, D.C., 20460; and the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 565–3224.

SUPPLEMENTARY INFORMATION: On June 14, 1995, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a request to extend the date for submission of a SIP revision which meets the requirements of the

three conditions specified for full approval of the New Hampshire motor vehicle inspection and maintenance program in the **Federal Register** of October 12, 1994, (59 FR 51514). New Hampshire requested an extension from July 29, 1995, to November 14, 1995.

Summary of SIP Revision

On June 14, 1995, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a request for extension of the date for submission of a SIP revision which meets the requirements of the three conditions specified in the **Federal Register** notice of October 12, 1994, from July 29, 1995, to November 14, 1995. New Hampshire must meet these conditions before the motor vehicle inspection and maintenance program can be approved. This is consistent with the requirements of Section 110 (k)(4) of the Clean Air Act which allows states up to one year to comply with conditions based on commitments by a state to adopt enforceable measures to meet SIP requirements. In New Hampshire's case these conditions call for (1) imposition of a more severe penalty for first time inspection offenses, (2) adoption of on-road testing standards, and (3) limiting the use of compliance via diagnostic inspection to those vehicles for which it is allowed under the EPA's I/M rules. November 14, 1995, is one year from the effective date of the New Hampshire conditional approval notice and is within the time allowed under section 110(f)(4) to meet SIP conditions.

The letter requesting this extension was not the subject of a public hearing. There is now insufficient time for New Hampshire to hold public hearings on its recent request for an extension of time to meet the conditions of the I/M SIP approval. Although such hearings are still required, in this case, EPA believes it is not in the public interest to demand that they occur prior to taking action on this revision and thus require disapproval of New Hampshire's I/M SIP. We note that New Hampshire held hearings on the submitted I/M program and provided the public an opportunity to comment on whether or not the submittal complied with federal statutory and regulatory requirements. Also, during EPA's approval process, the public had an opportunity to comment on the proposed conditional approval and address the State's commitments to correct identified deficiencies. According, while the State remains obligated to hold hearings on its commitments to adopt corrective measures, it merely is delaying such hearings for a *de minimus* period. EPA